
**TOWN OF EDGEWOOD
ORDINANCE NO. 2005-07
AN ORDINANCE**

PROVIDING FOR A CODE OF ETHICS

WHEREAS, the governing body of the Town of Edgewood has determined as a matter of sound public policy that:

- (1) The proper administration of democratic government requires that public officials must be independent, impartial, and responsible to the people;
- (2) Government decisions and policy must be formulated in the best interest of the people, and the community; and
- (3) The public must have confidence in the integrity of its government.

WHEREAS, the governing body has conducted public hearings and finds the above policies will be advanced by adopting the following Code of Ethics:

THEREFORE, be it ordained by the Town of Edgewood, by and through its governing body as follows:

A. DEFINITIONS.

Whenever used in this ordinance:

- (1) "Official" means the Mayor, all members of the Council, and all members of boards, commissions and committees serving or authorized to serve on behalf of the Town of Edgewood.
- (2) "Body" means the governing body of the Town of Edgewood and any of its boards, commissions and committees.
- (3) "Valuable gift" means any gift with a monetary value in excess of \$25.00, or series of gifts received within one calendar year with an aggregate value of \$25.00, excluding campaign contributions made within sixty (60) days of a municipal election.
- (4) "Contribution" means a loan, loan guarantee, gift, deposit, subscription, forgiveness of indebtedness, advance, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the election of a candidate for elected office of the Town of Edgewood. The term contribution does not include: (i) a volunteer's personal services provided without compensation or the travel or personal expenses of such a campaign worker; or (ii) the cost of an event held in honor of or on behalf of a candidate when the total cost of the event amounts to no more than two hundred dollars (\$200.00).

B. PROVISION FOR NEUTRAL HEARING OFFICER TO MAKE DETERMINATIONS IN CONFLICT OF INTEREST CASES.

In any case that arises because of a complaint that an official has violated the terms of this ordinance, the governing body shall appoint a neutral hearing officer from the neutral panel of the American Arbitration association to determine the merits of said complaint.

C. CONFLICTS OF INTEREST PROHIBITED.

(1) No official shall knowingly:

a. Disclose or use confidential information concerning the property, government or affairs of the body of which the official is a member without proper authorization in order to advance the private financial or other private interests of said official or others;

b. Vote or otherwise participate in any matter involving any business or entity in which the official has a private financial interest, or any for-profit corporation on which the official serves as an officer or member of the board of directors;

c. Represent private interests in any action or proceeding before the body of which the official is a member or any appeal of a decision of such body;

d. Accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm or corporation which to the official's knowledge is interested directly or indirectly in any manner whatsoever, in business dealings with the body of which the official is a member, including donors who are unidentified.

(2) No member of the governing body shall, during the term for which he or she was elected, be appointed to or selected for any paid employment with the Town other than the office to which the member was elected. Nor shall any member of the governing body, within one year of completing his or her term of office, be appointed to any paid employment which the Town created, or the emoluments of which first were established or were increased during such term; nor shall any member of the governing body during the term for which he or she was elected nor within one year thereafter, be interested directly in any contract with the Town, which was authorized by any law passed during such term.

(3) No official shall vote or otherwise participate in his or her official capacity in any quasi-judicial decision, including but not limited to decisions regarding personnel matters, zoning appeals, or subdivision plat approval, if the official knows of facts that would cause a reasonable person to doubt the decision maker's impartiality in the matter pending before the body.

D. DISCLOSURE.

(1) An official who has any private financial interest in any contract or other matter pending before the body of which the official is a member shall disclose such private interest to that body.

(2) Any official who has a private financial interest in any matter pending before the body of which the official is a member shall disclose such private financial interest on the records of the body, and, if such interest is direct, the official shall be disqualified from participating in any debate, decision or vote relating to that matter.

(3) Disclosure of an indirect private financial interest on a matter as provided by this section shall not ordinarily disqualify an official from debating and voting on the matter unless:

(a) A majority of the remaining members of the governing body determine that the disclosing councilor should not in propriety vote on the issue; or

(b) The disclosing councilor voluntarily disqualifies himself or herself.

(4) Notwithstanding the provisions of subparagraph (3), if the matter pending before the body involves a quasi-judicial decision by the body, a member who may have a conflict of interest as defined in Section C (3) of this ordinance shall not vote or participate in said matter unless authorized to do so by a proper majority vote of the governing body. Any body may table a pending matter if a majority of its members believe this provision could apply to that matter pending receipt of guidance by the governing body in conjunction with the Town attorney.

(5) Elected officials must report to the Town Clerk within thirty days of becoming a member of any Board of Directors of a for-profit corporation. The Town Clerk shall maintain a record of this information as a public document.

(6) Every official, during their term of office, shall file disclosure statements with the Town Clerk on January 15, February 15, March 15, July 15, and October 15 of each year setting out all contributions during the previous quarter, raised in connection with any campaign or pre-campaign activity for any elected office. An official is not required to file a quarterly statement if there have been no campaign or pre-campaign contributions during the previous quarter by or for the official. These disclosures shall constitute public records of the Town subject to inspection and copying as provided by State law.

E. USE OF PUBLIC PROPERTY.

No official of the Town shall use property owned by the Town for personal benefit, convenience, or profit except in accordance with policies promulgated by the Council.

F. ENFORCEMENT, PENALTY, APPEAL.

(1) Any charge of violations of this Ordinance shall be brought before the governing body by means of a verified petition, accompanied by a one hundred dollar filing fee. The governing body shall appoint a neutral hearing officer as provided by Section B upon receipt of a written finding by the Town Attorney that the facts alleged, if proven, would constitute a violation of this ordinance. The Town Attorney shall make this determination within thirty (30) days from the filing of the verified petition. A citizen may initiate such a charge by filing the verified petition and filing fee with the Town Clerk's Office.

(2) Should the Town Attorney issue a written finding that a petition fails to allege facts that would constitute a violation of this ordinance, this finding shall constitute a final determination that the petition should be denied.

(3) Should the hearing officer find, after due investigation and a hearing, that a violation has occurred, the hearing officer may issue a public reprimand or impose a fine not to exceed \$500 for each violation or do both.

(4) Should the hearing officer find that the petition was filed in bad faith, the officer may order the complaining party to pay the expenses of the public official who was the subject of the petition's claims, or impose a fine not to exceed \$500, or both.

(5) In addition to imposing such sanctions, or as an alternative thereto, when circumstances support removal from office under State Law, the hearing officer may recommend to the governing body that the violator be suspended or removed from office.

(6) The governing body may, upon receipt of such a recommendation and after due hearing of the charge, order the suspension or removal of any official not covered under NMSA

1978, §§ 10-4-1 *et seq.*, or by § 3-10-7.

(7) When the official falls within the category of public officials governed by §§ 10-4-1 *et seq.*, the governing body shall direct the town attorney to file an appropriate report with the district attorney of Santa Fe County when the hearing officer finds or it otherwise has been established to the satisfaction of the governing body that such official:

- (a) Has been convicted of any felony or of any misdemeanor involving moral turpitude;
- (b) Has failed, neglected or refused to discharge the duties of the office or to discharge any duty devolving upon the officer by virtue of his office, except that when such acts provide grounds to file a complaint under Section 3-10-7, the governing body may elect instead to proceed as provided in subparagraph (8) of this section;
- (c) Has knowingly demanded or received illegal fees as such officer;
- (d) Has failed to account for money coming into his hands as such officer;
- (e) Has committed acts of gross incompetence or gross negligence in discharging the duties of the office; or
- (f) Has committed any other act or acts, which reasonably could support a judicial finding of corruption in office or gross immorality rendering the incumbent unfit to fill the office.

(8) Should the hearing officer find that an official within the purview of § 3-10-7 has committed malfeasance in office, the governing body shall direct the Town Attorney to file a complaint with the District Court pursuant to that statute, unless it determines instead to follow the procedure set out in subparagraph (7) above.

(9) An aggrieved party may appeal from any final decision of the Town Attorney, the hearing officer, or the governing body to the District Court of the First Judicial District, by filing Notice of Appeal as provided by NMSA 1978, Section 39-3-1.1; provided however, that no right to appeal is created herein for an official to appeal a decision to proceed as provided by subsection (7) and (8) above, since any subsequent legal proceedings afford the affected official a full and fair opportunity to contest the allegations involved.

G. INVESTIGATION.

(1) The hearing officer or the governing body, in cases coming before it under this ordinance, may choose to ask for an investigation of allegations brought before it before making a final decision. To do this, the hearing officer may recommend to the governing body that it temporarily employ or contract with investigators. For the purposes of this section, the term "allegations" means both any formal charges filed with the Clerk and other information that, in the judgment of the hearing officer, raises a substantial question related to compliance with this Ordinance.

(2) All officials and contractors of the Town shall furnish the hearing officer, the governing body, or its investigator with requested information and records within their custody that are germane to any investigation requested by the hearing officer and authorized by the governing body. Officials and contractors also may be required to appear as witnesses in hearings under this ordinance.

H. NON-WAIVER OF PENALTIES.

Nothing herein set forth shall be construed to affect or otherwise diminish any penalties otherwise provided by law for violation of the matters set forth in this Ordinance, and nothing herein shall prevent the hearing officer or the governing body from bringing to the attention of the proper authority any alleged violation that may be subject to such other penalties.

Witnessed and approved this 23rd day of March, 2005.

HONORABLE ROBERT M. STEARLEY, MAYOR

Attest:

TOWN CLERK